



Samarah: Jurnal Hukum Keluarga dan Hukum Islam
Volume 6 No. 2. July-December 2022
ISSN: 2549 – 3132; E-ISSN: 2549 – 3167
DOI: 10.22373/sjkh.v6i2.12874

***Passampo Siri'* in the Bugis Marriage Practies in East Kolaka,
Indonesia: A Sociological Perspective of Islamic Law**

I pandang

Sharia Faculty, The State Islamic Institute of Kendari

Syamsul Darlis

Sharia Faculty, The State Islamic Institute of Kendari

Email: ipandang@iainkendari.ac.id

Abstract: This research aims to illustrate the problematics of *Passampo Siri'* marriage practice in the Bugis community, East Kolaka Regency, using a descriptive qualitative method based on the sociology of Islamic law. Data collection techniques by means of interviews with informants who are deemed necessary and observing or directly paying attention to the implementation of the marriage tradition through *siri'*. The findings indicate that the Bugis society practices this type of marriage because of social pressure to conceal shame, adherence to ancestral customs, a lack of public understanding of relevant marriage law norms, and low levels of public education. However, the custom is no longer practiced since it cannot provide justice and order in society. This marriage also has implications for acts against the law of society, as stipulated in Article 53 of the KHI that a pregnant woman out of wedlock can only be married to a man who impregnates her. In contrast, for the practice of *Passampo Siri'* marriages, the pregnant woman out of wedlock is married to another man. Therefore, this research contributes directly to the development of the study of Islamic law in Indonesia and the world in finding the best solution to achieving legal expectations among the public, especially regarding marriages of pregnant women out of wedlock with men who do not impregnate them.

Keywords: Marriage, pregnant woman, *passampo siri'*, sociology of law, Islamic family law

|| Submitted: March 14, 2022 || Accepted: December 24, 2022 || Published: December 31, 2022

<http://jurnal.ar-raniry.ac.id/index.php/samarah>

Abstrak: Penelitian ini bertujuan untuk menggambarkan problematika praktik perkawinan passampo siri pada masyarakat Bugis Kabupaten Kolaka Timur dengan menggunakan metode kualitatif deskriptif berdasarkan sosiologi hukum Islam. Teknik pengumpulan data dengan cara wawancara dengan informan yang dianggap perlu dan mengamati atau memperhatikan langsung pelaksanaan adat perkawinan melalui siri'. Temuan menunjukkan bahwa masyarakat Bugis mempraktikkan perkawinan jenis ini karena tekanan sosial untuk menyembunyikan rasa malu, kepatuhan terhadap adat leluhur, kurangnya pemahaman masyarakat tentang norma-norma hukum perkawinan yang relevan, dan rendahnya tingkat pendidikan masyarakat. Namun, adat tersebut tidak lagi dipraktikkan karena tidak dapat memberikan keadilan dan ketertiban dalam masyarakat. Perkawinan ini juga berimplikasi pada perbuatan melawan hukum masyarakat, sebagaimana diatur dalam Pasal 53 KHI bahwa wanita hamil di luar nikah hanya dapat dinikahkan dengan laki-laki yang menghamilinya. Sebaliknya, untuk praktik perkawinan passampo siri', perempuan hamil di luar nikah menikah dengan laki-laki lain. Oleh karena itu, penelitian ini memberikan kontribusi langsung bagi perkembangan kajian hukum Islam di Indonesia dan dunia dalam mencari solusi terbaik untuk mencapai harapan hukum di kalangan masyarakat, khususnya mengenai perkawinan wanita hamil di luar nikah dengan pria yang tidak menghamilinya.

Katakunci: Pernikahan, wanita hamil, passampo siri', sosiologi of law, hukum keluarga Islam

Introduction

The practice of *Passampo Siri'* marriage is still occurring in the Bugis community, East Kolaka Regency. This marriage is practiced for three reasons: *First*, the man who impregnates the woman does not want to be responsible for the unborn child¹; *Second*, Adat and financial situation conflict with the lady and the family's desire for the man to take responsibility²; *Third*, it is not certain that the man impregnated the woman because of several intercourses with other men before pregnancy.³ These three phenomena are considered a disgrace, and from this incident, the family looked for another man ready for marriage. In addition, the couple will be divorced immediately

¹ Abdul Hamid, "Kahi' Pura sebagai Perkawinan Passampo Siri' di Desa Biji Nangka Kecamatan Sinjai Borong Kabupaten Sinjai," *Jurnal To Malebbi* 4, no. 1 (2017), p. 22.

² Wahyu Wibisana, "Perkawinan Wanita Hamil di Luar Nikah serta Akibat Hukumnya Perspektif Fikih dan Hukum Positif," *Jurnal Ta'lim* 15, no. 1 (2017), p. 32.

³ Wahyu Wibisana, *Perkawinan Wanita Hamil di Luar Nikah...*, p. 18.

following the execution of the marriage contract. Samsidar categorized it as forced marriage to cover up shame since the man does not want to be responsible. Therefore, the family looks for another willing to volunteer or be given a certain reward to marry the woman.⁴

Previous research on *Passampo Siri'* marriage have been classified into three. The first tendency discusses the procession, such as the work of Irfan⁵ and Hamid.⁶ The second examines the practice of marriage out of wedlock in a review of Islamic Law.⁷ Meanwhile, the third analyzes Bugis' marriage, such as the work of Wei-Jun and Zheng⁸ with Yasir.⁹ The three tendencies showed that the marriage issue of the Bugis community in the Sociological perspective of Islamic Law had not received maximum attention. Previous research focused on the legal status of marrying pregnant women out of wedlock from various perspectives. Therefore, this research aims to provide complete knowledge and show why the Bugis community practice *Passampo Siri'* marriage from the Sociological perspective of Islamic Law. It formulates laws and regulations concerning marriage law for pregnant women out of wedlock in Indonesia.

Since it is a field research,¹⁰ the primary data source is based on observations and interviews.¹¹ The observation results were obtained by recording *Passampo Siri'* marriages practices. Meanwhile, the interviews

⁴ Samsidar, "Dampak Kawin Paksa terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone," *Jurnal Supremasi* 14, no. 1 (2019), p. 27.

⁵ Irfan Islami, "Perkawinan di Bawah Tangan (Kawin Sirri) dan Akibat Hukumnya," *Jurnal Adil* 8, no. 1 (2017), p. 76.

⁶ Abdul Hamid, *Kahi' Pura sebagai Perkawinan Passampo Siri'...* p. 11.

⁷ Sanne Murling, Jeannette Kamp, And Ariadne Schmidt, "Unwed Mothers , Urban Institutions and Female Agency in Early Modern Dutch, German and Italian Towns," *Journal The History of the Family* 2, no. 1 (2020), p. 7. See, Farida Hanum, "Status Anak yang Dilahirkan dari Perkawinan Wanita Hamil karena Zina menurut KHI dan UU No. 1 Tahun 1974 tentang Perkawinan," *Premise Law Journal* 8, no. 3 (2015), p. 1.

⁸ Wei-Jun Jean Yeung dan Zheng Mu, "Migration and Marriage in Asian Contexts Migration and Marriage in Asian Contexts," *Journal of Ethnic and Migration Studies* 2 no. 1, (2019), p. 7.

⁹ Moh Yasir Alimi, "Islam as Drama : Wedding Rites and the Theatricality of Islam in South Sulawesi," *The Asian Pacific Journal of Anthropology* 15, no. 3 (2014), p. 266.

¹⁰ Hassan A. Azis, "Comparison Between Field Research and Controlled Laboratory Research," *Arch Clin Biomed Res Journal* 1, no. 2 (2017), p. 49.

¹¹ Benjamin Saunders et al., "Saturation in qualitative research : exploring its conceptualization and operationalization," *Quality & Quantity Journal* 52, no. 4 (2018), p. 1896.

results were obtained by interviewing religious, community, and traditional leaders with the perpetrators of the marriages, which is described as follow:

Table 1: Informant Data

No.	Informant	Position	Gender	Address
1	Rudin	Religious leaders	Male	Aere Districts
2	Iren	Religious leaders	Female	Poli-polia Districts
3	Ilyas	Religious leaders	Male	Dangia Districts
4	Jureje'	Religious leaders	Male	Ladongi Districts
5	Muliyadi	Community figure	Male	Dangia Districts
6	Anto	Community figure	Male	Lambandia Districts
7	Enre'	Community figure	Male	Lambandia Districts
8	Lagis	Traditional leader	Male	Dangia Districts
9	Mukis	Traditional leader	Male	Loeya districts
10	Taja	Traditional leader	Male	Poli-polia districts
11	AC	<i>Passampo Siri'</i> Actor	Male	Loeya districts

***Passampo Siri'* Marriage Practice**

The nature of marriage in Bugis customs is consistent with the concept of Islamic Law, namely as a strong bond in the structure of family formation and in building social interactions. However, a different portrait is shown when pregnant women are out of wedlock and in such a situation, *Passampo Siri'* marriage is practiced. The description of the marriage practice for the Bugis community is as follows:

The first case, Muliyadi revealed: "In 2016, a couple named NL and AC committed adultery, which resulted in pregnancy out of wedlock. AC has asked NL for marriage, but the bride price (*Doi Menre'*) was deemed insufficient by the woman's family, and the proposal was rejected. The refusal also occurred because NL's parents were unaware of the pregnancy. They met with AC to discuss their marriage after learning about the pregnancy. However, AC had married another woman in Loeya District. The incident spread and became a discussion among the surrounding community, which caused disgrace to the family. The woman's family asked for an answer from the man, but AC had married another woman. Therefore, NL was married to AC's cousin named KH with an agreement to get divorced after the marriage contract is implemented."¹²

¹² Interview with Muliyadi, Community figure in Dangia, East Kolaka, 2020.

According to AC, NL and KH's marriage procession was held at NL's uncle named Petta Side' in private, without the presence of the surrounding community. A set of prayer items constituted KH's dowry, and NL's uncle was appointed as the guardian of the marriage. After the consent was pronounced, KH immediately divorced NL about five minutes later. The marriage was held at Petta Side's house because he is a traditional leader in the village, therefore, the purpose of not holding the marriage at NL or KH is to avoid conflicts between the two families. In addition, the East Kolaka Bugis group's traditional leader serves as a mediator when there is a dispute about customs in the community.¹³

In the second case, a woman named SM was pregnant out of wedlock in 2017. Rudin revealed that: "The woman is known to be naughty in the village community because she often changes partners before her pregnancy. Moreover, she engages in numerous activities such as concerts and night markets, and frequently travels with a man whose history is unknown. She did not know the man who got her pregnant, and the news had spread among the surrounding community. As a result, she was prohibited from communicating with the surrounding community, and after some time, the family looked for a man to marry her, with an agreement of divorcing after the marriage. However, no man was ready, and the local Village Priest suggested that she get married to a mosque keeper named NP."¹⁴

The marriage of SM and NP was held at the residence of the Tinete Village priest at Aere District. The dowry paid was a set of prayer tools prepared by the woman's parents. As a relative, the local priest performed the ceremony in his home, where he shared the shame of what had befallen the nephew. The marriage was only attended by the woman's father, the Village Priest, and the mosque keeper in private. The child born to the woman has a father because she married before giving birth.

In the third case, a woman named RK was pregnant out of wedlock due to her adultery with a man named AS. Lagis stated: "The man had shown up at the woman's house to make an engagement and marriage proposal to RK, with whom she was expecting a child. However, the woman's family disagreed because AS was an alcoholic and a cock belt gambler. As a result of the rejection, AS refused to deal with RK's pregnancy. The family continues to demand responsibility, asking him to pay for the childbirth. AS refused to take responsibility since he was not allowed to marry RK. Based on

¹³ Interview with AC, *Passampo Siri'* Actor, Loeya Districts, East Kolaka, 2020.

¹⁴ Interview with Rudin, Religious leaders in Aere Districts, East Kolaka, 2020.

this, RK's family offered to settle the case through *kawi' pura*, agreeing that AS had to divorce RK after the marriage. RK was also not allowed to marry another man before giving birth."¹⁵

The marriage of RK and AS was held at the house of the Atulano Village Head to avoid litigation in the family secretly, considering that the incident was a disgrace to the people. A traditional village leader named Lagis acted as the marriage guardian. The wedding procession was only attended by AS, traditional leaders, and RK's brother. The dowry given to RK's family at that time was IDR 150,000. The purpose of holding a *Passampo Siri'* marriage, in this case, is to cover up the shame of the two litigated families, because news of RK's pregnancy has spread to neighboring villages. The second goal is to entice AS to pay for RK's pregnancy and the subsequent birth of the child.¹⁶

The fourth case, Anto explained: "In 2014, a woman named MD got pregnant out of wedlock for ZS. The case started with MD's awareness that she was pregnant due to her adultery with ZS. However, when MD and the family tried to locate ZS, an employee at a metal business in Ladongi Village, they were unable to get any information concerning the location. According to information from the local community, ZS has returned to West Kalimantan Province. The woman's relatives attempted to track down ZS after learning of this information, but they were unable."¹⁷

Based on the explanation, MD's family felt very ashamed since the child will not have a legal father. Finally, MD decided to settle the case through a *Passampo Siri'* marriage; however, the man who was ready to marry her was not known. According to the local community, the man was from Kolaka Regency and paid to marry MD with an agreement to divorce after the marriage carried out to cover for shame in this case.

Based on the four cases described above, it can be concluded that the practice of *Passampo Siri'* marriage has different problem motives. However, every marriage goes through a similar procedure, including an agreement to divorce after the wedding, a dowry, guardianships, witnesses, and finally, a legally binding marriage contract.

¹⁵ Interview with Lagis, Traditional leaders in Dangia Districts, East Kolaka, 2020.

¹⁶ Interview with Lagis, Traditional leaders in Dangia Districts, East Kolaka, 2020.

¹⁷ Interview with Anto, Community figure in Lambandia Districts, East Kolaka, 2020.

Reasons for Implementing *Passampo Siri'* Marriages

This discussion focuses on the reasons for the practice of *Passampo Siri'* marriage. The results of the interview with Enre' and Mukis obtained four causes of the Bugis community considering the marriage a solution to the problems of pregnant women out of wedlock, namely:

First, the man does not want to be responsible. Enre' stated: "The practice of *Passampo Siri'* marriages is carried out when there is a case of a pregnant woman out of wedlock and there is no man who wants to be responsible for the pregnancy. The marriage for the Bugis community is a procession that does not occur among the people because the practice is a sign of the *siri'* opening. However, it is recommended that, in the event of unwed pregnancy, the woman should be married to another man who is willing to serve as *Passampo Siri'*."¹⁸

Second, there is no information about the man who got the woman pregnant. According to Mukis, *Passampo Siri'* marriage was performed because of pregnancy out of wedlock. However, the man who conceived her was unknown because she had intercourse with multiple men before pregnancy.¹⁹

Third, there is no blessing of parents/guardians. The practice of *Passampo Siri'* marriage also occurs when the man or woman has different social status, such as the man from the nobles of Andi, Daeng, Karaeng, with a woman from the To-Sama. Generally, noble families do not wish to marry off their sons, even when they have impregnated someone's daughter, however, they are prepared to pay anything as long as the son does not marry the lady. The next difference in status is concerning economic status. Wealthy people also do not want to marry off their daughter to someone lower than them, even though there has been a pregnancy out of wedlock. Moreover, Mukis explained that the cause of the marriage disapproval of an adulteress couple, which resulted in a woman getting pregnant out of wedlock, was the bad behavior of *Passampo Siri'* marriage actor. This is seen from the third case above, considering that the man who impregnated RK was a drunkard and a gambler, making RK's parents disapprove of marrying this man.

Fourth, the adulterous partner hides the woman's pregnancy. One of the causes of *Passampo Siri'* marriage is that parents do not know that their

¹⁸ Interview with Enre', Community figure in Lambandia Districts, East Kolaka, 2020.

¹⁹ Interview with Mukis, Traditional Leader in Loeya Districts, East Kolaka, 2020.

daughter has committed adultery and is pregnant out of wedlock. The marriage practice is handled by a local traditional leader who is also the guardian of the pregnant woman's marriage. Because of this, the biological father did not become the guardian in this marriage which caused the attitude of sincerity and good intentions in destroying the household in order to maintain the essence of the purpose of the marriage did not materialize.

***Passampo Siri'* Marriage in Sociological Perspective of Islamic Law**

The presence of Islam in the life of the Bugis community requires the application of Islamic law to conduct every procession of worship and *muamalah*, including in the case of marriage. Therefore, the theory of social change is utilized to investigate the sociological perspective of Islamic Law on the practice of *Passampo Siri'* marriages. This theory sees the existence of customary law norms applied by the Bugis community in handling cases of pregnant women out of wedlock. The legal norms are also analyzed for their application in realizing order and justice in Bugis community.²⁰

The step to examine the customary law norms application focuses on four parts, as follows:

First is the Interaction Pattern of the Bugis Community with Islamic Marriage Law. Islamic law should be applied to every Muslim community according to their ability level. According to al-Sya'rani, as quoted by Wasik, the level of a Muslim's ability can be measured by obedience to religion, social status, and environment.²¹

The obedience of the Bugis community can be traced from their activities in implementing the pillars of Islam, as Muliyadi stated: "The Bugis community in East Kolaka Regency adheres to Islam, and when there are any who seek to smear Islam's image, they will be expelled from the region. They fast, pay zakat fitrah and pray obediently only on Fridays and throughout the month of Ramadan. Even though their economic conditions are mediocre, the ordinary Bugis people have performed the pilgrimage. Likewise, in implementing other worship, such as marriage, they follow the guidance of

²⁰ Tarmizi, "Inheritance System of Bugis Community in District Tellu Siattiangge Bone, South Sulawesi (Perspective of Islamic Law)", *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, No. 1 (2020). Mursyid Djawas and Sri Astuti A. Samad, "Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehese Community According Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, No. 1 (2020).

²¹ Abdul Wasik, "Korelasi Interaksi Sosial dalam Perkembangan Hukum Islam di Indonesia," *Jurnal Hukum Islam* 14, no. 1 (2016), p. 34–35.

Islamic law. In Bugis marriages, many processions are carried out, starting from the proposal, discussing the amount of dowry, determining guardians and witnesses, including entertaining guests during the wedding ceremony.”²²

The Bugis people have practiced the teachings of Islam well, including in matters of marriage. However, there is a different view when they are faced with an embarrassing incident, such as the case of a pregnant woman out of wedlock. They then return to the customary provisions to resolve the case through the practice of *Passampo Siri'* marriage to cover up the disgrace.

In carrying out marriages, the Bugis community combines Islamic with customary law at the procession stage, and the interview with Iren showed that this people conduct marriages in an Islamic way. However, several processions originate from customs, such as *mammanu'-manu'*, *mappasiarekeng*, and *mappacci*. These processions do not conflict with the provisions of Islamic law, since it is conducted only for the good of the bride and groom.²³

Based on the explanation, the practice or implementation of Bugis marriages is not contrary to the provisions of Islamic law. However, it becomes a different view when *siri'* or their honor is injured, and then they are willing to do anything to eliminate the disgrace. This is conducted to maintain the practice of *Passampo Siri'* marriages to eliminate the disgrace caused by pregnant women out of wedlock cases.

As Allah says in QS, maintaining self-respect and family honor in Islam is highly recommended. At-Tahrim [66]: 6 about Allah's call to protect the dignity and honor of the family from the torment of hellfire. This honor should be maintained correctly or appropriately with sharia guidance. As in the case of pregnant women out of wedlock, the settlement process should rely on the rules of the Islamic law, in this case, the Compilation of Islamic and Marriage Law. Therefore, the Bugis community is wrong in interpreting the principle of maintaining respect in Islam. They carry out marriage practices that are not appropriate with the provisions of applicable Islamic law.

The subsequent discussion is about the social status of the Bugis community. Burhanuddin revealed that other communities immensely respect the Bugis community who inhabit the East Kolaka Regency because they are classified as economically capable, educated, open, and traditional people, some of whom even become civil servants at the district level. However, when

²² Interview with Mulyadi, Community figure in Dangia, East Kolaka, 2020.

²³ Interview with Iren, Religious Leaders in Poli-Polia Districts, East Kolaka, 2020.

paying attention, the majority who practice *Passampo Siri'* marriages are those whose social status is quite good.

The social status of the Bugis community is good because, in their environment, there are people who are educated, religious, open, and traditional. As previously stated, religious and traditional authorities play a critical role in executing Bugis marriages. This shows that the community environment is peaceful and orderly because it has handed over marital affairs to religious and traditional leaders.

Based on the explanation, it can be concluded that those who often practice *Passampo Siri'* marriages are considered to have a higher social status than other communities. This is because the pressure of shame is felt more strongly by people with high social status than the mediocre. Therefore, the pressure drives people to practice *Passampo Siri'* marriages and cover the disgrace caused by pregnant women out of wedlock.

The social environment of the Bugis community is strongly influenced by their principles of life, such as upholding their *siri'* (honor). However, this principle is often misunderstood in handling embarrassing cases, such as the case of pregnant women out of wedlock. The main doctrine of the principle reads more or less, "something that is embarrassing should be removed at any cost because it becomes a disgrace to oneself, one's family, and the surrounding community." This means integrating the *siri'* principle in handling pregnant women out of wedlock cases shows the precedence of customary law norms over Islamic marriage. This is because the practice of *Passampo Siri'* marriage is carried out to cover disgrace without any intention of forming a peaceful family filled with love and affection, as mandated by Islamic marriage.

Second is the Perspective of Islamic Marriage Law on the Purpose of *Passampo Siri'*. The marriage justifies the relationship between man and woman, including creating peace with love and affection among other family members. Meanwhile, Article 2 of the KHI mentioned that marriage is a strong bond between men and women and their families to fear Allah. The purpose of marrying a pregnant woman out of wedlock with a man who impregnates her is to protect her rights and the child, as stated in the KHI Article 53

paragraph 2.²⁴ Therefore, a marriage conducted to cover disgrace is contrary to the provisions of Islamic law.²⁵

Ali Muhtarom stated that adulterous women cannot marry anybody but adulterous men. Therefore, women who become pregnant out of wedlock can only marry males who impregnate them, as their status is identical to adulterers. Such marriages are permissible because Fiqh Ulama tries to maintain purity in preserving offspring, show halal ways to meet biological needs, and provide practical steps in assuming responsibilities.²⁶

The practice of *Passampo Siri'* marriage for the Bugis community is contrary to Islamic law and the ijtehad of Fiqh Ulama. Due to this marriage norm, women who fall pregnant out of wedlock have the option of marrying another guy or not the man who conceived her. The man immediately divorces the pregnant woman after the marriage contract is held in implementing the marriage. Therefore, this does not reflect the purpose of marriage in Islamic law since it does not form a family.

Third is adapting Islamic Marriage Laws in *Passampo Siri'* Marriage Practices and the research examines the relationship between the two variables, assuming that Islamic law is a cultural and social phenomenon.²⁷ Based on these assumptions, this study explores the historical reasons for the practice of *Passampo Siri'* as marriages for pregnant women out of wedlock. Furthermore, it will be discussed concerning the situation of the Bugis community during the period when Islamic law was first adopted as a guide. Taja stated that marriage was unknown when the previous Bugis community began instituting *Passampo Siri'*. Before Islam was embraced, marriage was practiced in resolving cases of pregnant women out of wedlock. As for the practice of *Passampo Siri'* marriages for the former community, Taja stated: "In the past, the Bugis community's approach to marriage was fundamentally different from now. These differences includes in the words of consent qabul "*upasialako baco'* (the word for men) *sibawa becce'* (the word for women),

²⁴ Khoiruddin Nasution, "Penerapan Kompilasi Hukum Islam Pasal 53 tentang Kawin Hamil dan Tajdid al-Nikah di Kecamatan Mlati dalam Tinjauan Maqasid Syariah," *Jurnal Millah* 20, no. 2 (2021), p. 327.

²⁵ Dede Kania, "Hak Asasi Perempuan dalam Peraturan Perundang-Undangan Di Indonesia The Rights of Women in Indonesian Laws and Regulations" *Jurnal Konstitusi* 12, no. 4 (2015), p. 717.

²⁶ Ali Mohtarom, "Hukum Menikahi Wanita Hamil karena Zina dan Kedudukan Anaknya," *Jurnal Mu'allim* 2, no. 1 (2020), p. 4.

²⁷ Muhammad Faisol, "Hukum Islam dan Perubahan Sosial," *Jurnal Ilmiah Syariah* 18, Nn. 1 (2019), p. 40.

mamuarei mutarimai laleng temama becce', Mutuo riakuasangenna dewatae."²⁸ However, the Islamic method was used in the marriage contract after the arrival of the religion. Even though Islam is the religion of the majority of the Bugis community, the procedure for marriage has not changed much, only the dowry and the marriage contract have changed".

The previous Bugis community maintained the practice of *Passampo Siri'* marriage until the adoption of Islam. The provisions of Islamic law are the existence of dowry and consent in marriage. However, when it comes to finishing the case, they frequently disregard the law's rules as legal objects permitted to govern and manage the case, as well as the *ijtihad* of Fiqh Ulama, the majority of which serve as their guides in carrying out Islamic law. The Bugis community is quite wrong in interpreting the principle of *siri'* which the ancestors inherited. This is the opinion of Ambo' Enre':

"The Bugis community which preserves *Passampo Siri'* marriage cannot harmonize the *siri'* principle with the changing times. The marriage was carried out to cover it up because there were no provisions from other legal sources. However, pregnant women out of wedlock, which is settled by *Passampo Siri'* marriage, should be a disgrace to women and their families because they have committed adultery before marriage and are married in an unislamic manner."

Fourth is the Bugis community support for Islamic Marriage Law. The acculturation of Islamic and customary law is a sign of the variation among the Muslim community in Indonesia. Islamic law and adat coexist among the Bugis community. Therefore, it is acceptable to mix Islamic and customary law in the administration of their marriage, provided they do not clash. However, the Bugis community has different views concerning the interpretation of *Passampo Siri'*. The following are the interviews with several informants on their support for Islamic marriage law and its relation to the practice of *Passampo Siri'* marriage.

Ilyas stated that the Islamic marriage law is appropriate with the conditions of current society because the government sets the rules based on the community's needs. This is in line with Jureje's opinion, which stated that knowledge about marriage law in Islam had reached the community in statutory regulations and Islamic law in the form *ijtihad* of Fiqh Ulama.

²⁸ It means "I tie you baco' with becce', may you accept Becce's urinary tract and you live under the rule of the gods". Interview with Taja, Traditional Leaders in Poli-Polia Districts, East Kolaka, 2020.

Therefore, they should be submissive and obedient to marriage laws and the provisions of Fiqh Ulama ijihad as good Muslims.²⁹

The Bugis community's response to the practice of *Passampo Siri'* marriages is different. Some still want to defend it, while others want to return the settlement of the case to the provisions of the law. The differences of opinion are as follow:

First is people who want to maintain. The majority of the Bugis community who want to maintain a *Passampo Siri'* marriage have two reasons, namely (1) the family should cover up its shame to facilitate communication and interaction with the surrounding community. The woman and the family, afflicted with embarrassing situations, such as the case of pregnant women out of wedlock, tend to be closed and do not want to socialize with the surrounding community; and (2) the practice of *Passampo Siri'* marriage should be maintained because of the Bugis community. As a result, when a new approach is proposed, it will almost likely cause conflict in the community.

The results found the educational background of *Passampo Siri'* marriage actors and the informants who still maintain the marriage. The marriages actors are those with a High and Junior High School education background, while the informants who support and want to maintain the practice of marriage are those with a high school educational background and below. Based on this, the practice of *Passampo Siri'* marriage in the East Kolaka Regency persists currently because the low level of public education drives it. In addition, the support from several religious, traditional, and community leaders for the marriage's implementation formed the Bugis community's paradigm that the practice of *Passampo Siri'* marriage is legal. *Second* is people who want to return to the provisions of the law. Pregnant women who are not married should have their cases addressed in court, not through a *Passampo Siri'* marriage. People who hold this view have two reasons, (1) the case of a pregnant woman out of wedlock is a disgrace to women, their families, and the general public living in a village. Therefore, resolving the case is better handled by the authorities to prevent disputes between communities in the future, considering that every village has a different family clump. (2) *Passampo Siri'* marriage does not reflect a good state and religious attitude because the practice shows an attitude against state and religious law.

²⁹ Interview with Ilyas, Religious Leaders in Dangia Districts, East Kolaka, 2020. Interview with Jureje', Religious Leaders in Ladongi Districts, East Kolaka, 2020.

The educational backgrounds of informants tasked with resolving instances of pregnant women under the rules of Indonesian law include bachelor (S1) and high school degrees. Therefore, education becomes essential for the younger generation of the Bugis community to reduce marriage practices that are contrary to Islamic marriage law.³⁰

Based on the four investigations, it can be determined that the Bugis community had their customary rule for performing weddings before converting to Islam. However, by adopting Islam as their faith, they merge customary and Islamic marital rules, including shameful weddings (*Passampo Siri'*).

Problems that arise in the practice of *Passampo Siri'* marriage is the dowry, which comes from the woman's side. The two married couples divorced shortly after the consent was granted. Therefore, the practice of marriage is not appropriate with the pillars and objectives of Islamic family law. The discrepancy between the practice of *Passampo Siri'* marriage with the provisions of Islamic law raises new problems such as increasing the practice of adultery. The children exemplify the practice of unregistered marriage and people accustomed to acting against the laws in Islam. The practice of *Passampo Siri'* marriage as a customary law norm of the Bugis community in resolving pregnant women cases cannot create order and justice. The practice of marriage cannot be confirmed by Islamic family law. This is consistent with the theory of social change that the customary law norms are customary laws that can create order and justice in the community. Therefore, it should not be practiced anymore since there are provisions regarding the marriage of pregnant women out of wedlock in the laws and regulations.

Conclusion

The Bugis community combines customary and Islamic marriage law in carrying out marriages. However, the application is different when faced with events that cause disgrace, such as the marriage of pregnant women out of wedlock, which tends to practice *Passampo Siri'* in resolving these cases. The marriage was conducted for four reasons: the man does not want to be responsible, the man who impregnates the woman is unknown, the parents do not approve due to economic and ethical reasons, and the adulteress partner hides the woman's pregnancy. The sociological perspective of Islamic Law

³⁰ The data was obtained from the results of interviews with the informants during the research.

views *Passampo Siri'* as a form of marriage contrary to Islamic law and the *ijtihad* of Fiqh Ulama. This is because pregnant women out of wedlock can marry other men who did not impregnate them. Moreover, the dowry in the practice of marriage comes from the woman. This legal status prevents *Passampo Siri'* marriage from realizing order and justice in society. Therefore, the validity of the marriage cannot be confirmed by Islamic law as stipulated in the formulation of the social change theory. This research focuses on the marriage of pregnant women out of wedlock in the Sociological perspective of Islamic Law. The development will be conducted by focusing on Islamic and positive law.

References

Journals and Books

- Azis, Hassan A. "Comparison Between Field Research and Controlled Laboratory Research." *Arch Clin Biomed Res Journal* 1, No. 2 (2017).
- Djawas, Mursyid and Sri Astuti A. Samad, "Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehese Community According Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, No. 1 (2020).
- Faisol, Muhammad. "Hukum Islam dan Perubahan Sosial." *Jurnal Ilmiah Syariah* 18, No. 1 (2019).
- Hamid, Abdul. "Kahi' Pura sebagai Perkawinan Passampo Siri' di Desa Biji Nangka Kecamatan Sinjai Borong Kabupaten Sinjai." *Jurnal To Malebbi* 4, no. 1 (2017).
- Hanum, Farida. "Status Anak yang Dilahirkan dari Perkawinan Wanita Hamil karena Zina menurut KHI dan UU No. 1 Tahun 1974 tentang Perkawinan." *Premise Law Journal*, 8, No. 3 (2015).
- Islami, Irfan. "Perkawinan di Bawah Tangan (Kawin Sirri) dan Akibat Hukumnya." *Jurnal Adil*, 8, no. 1 (2017).
- Kania, Dede. "Hak Asasi Perempuan dalam Peraturan Perundang-Undangan Di Indonesia" *Jurnal Konstitusi*, Vol 12 No. 4 (2015).
- Moh Yasir Alimi. "Islam as Drama : Wedding Rites and the Theatricality of Islam in South Sulawesi." *The Asian Pacific Journal of Anthropology* 15, no. 3 (2014).

- Mohtarom, Ali. "Hukum Menikahi Wanita Hamil karena Zina dan Kedudukan Anaknya." *Jurnal Mu'allim*, Vol 2, No. 1 (2020).
- Muksalmina. "Pernikahan Sirri dalam Perspektif Hukum Islam dan Hukum Positif." *Jurnal Inovasi Penelitian*, Vol 1, No. 2 (2020).
- Murling, Sanne, Jeannette Kamp, dan Ariadne Schmidt. "Unwed Mothers, Urban Institutions and Female Agency in Early Modern Dutch, German and Italian Towns." *The History of the Family*, Vol. 2, No. 1, 2020.
- Nasution, Khoiruddin. "Penerapan Kompilasi Hukum Islam Pasal 53 tentang Kawin Hamil dan Tajdid al-Nikah di Kecamatan Mlati dalam Tinjauan Maqasid Syariah." *Jurnal Millah* 20, No. 2 (2021).
- Samsidar. "Dampak Kawin Paksa terhadap Kehidupan Rumah Tangga Pada Masyarakat Lamurukung Kabupaten Bone." *Jurnal Supremasi* 14, no. 1 (2019).
- Saunders, Benjamin, Julius Sim, Tom Kingstone, Shula Baker, Jackie Waterfield, Bernadette Bartlam, Heather Burroughs, and Clare Jinks. "Saturation in Qualitative Research: Exploring its Conceptualization and Operationalization." *Quality & Quantity* 52, no. 4 (2018).
- Tarmizi, "Inheritance System of Bugis Community in District Tellu Siattiangge Bone, South Sulawesi (Perspective of Islamic Law)", *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, No. 1 (2020).
- Wasik, Abdul. "Korelasi Interaksi Sosial dalam Perkembangan Hukum Islam di Indonesia." *Jurnal Hukum Islam* 14, no. 1 (2016).
- Wei-Jun Jean Yeung, dan Zheng Mu. "Migration and Marriage in Asian Contexts Migration and Marriage in Asian contexts." *Journal of Ethnic and Migration Studies* 2, no. 1 (2019).
- Wibisana, Wahyu. "Perkawinan Wanita Hamil di Luar Nikah serta Akibat Hukumnya Perspektif Fikih dan Hukum Positif." *Jurnal Ta'lim* 15, no. 1 (2017).

Interviews

- Interview with AC, *Passampo Siri'* Actor, Loeya Districts, East Kolaka, 2020.
- Interview with Anto, Community figure in Lambandia Districts, East Kolaka, 2020.

Interview with Enre', Community figure in Lambandia Districts, East Kolaka, 2020.

Interview with Ilyas, Religious Leaders in Dangia Districts, East Kolaka, 2020.

Interview with Iren, Religious Leaders in Poli-Polia Districts, East Kolaka, 2020.

Interview with Jureje', Religious Leaders in Ladongi Districts, East Kolaka, 2020.

Interview with Lagis, Traditional leaders in Dangia Districts, East Kolaka, 2020.

Interview with Mukis, Traditional Leader in Loeya Districts, East Kolaka, 2020.

Interview with Mulyadi, Community figure in Dangia, East Kolaka, 2020.

Interview with Rudin, Religious leaders in Aere Districts, East Kolaka, 2020.

Interview with Taja, Traditional Leaders in Poli-Polia Districts, East Kolaka, 2020.